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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/659,412

09/11/2000

Lesley Davenport

LESL-0003

4614

35136

7590

02/25/2004

COZEN O' CONNOR, P.C.

1900 MARKET STREET

PHILADELPHIA, PA 19103-3508

EXAMINER

CRUZ, MAGDA

ART UNIT

PAPER NUMBER

2851

DATE MAILED: 02/25/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/659,412

Applicant(s)

DAVENPORT ET AL.

Examiner

Magda Cruz

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 November 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13, 18-23 and 29-35 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 8, 9, 18-20 and 29 is/are rejected.
- 7) ☒ Claim(s) 3-7, 10-13, 21-23 and 30-35 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 September 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 11/14/2003.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-2, 8-9, 18-20 and 29 are rejected under 35 U.S.C. 102(b) as being ~~anticipated by~~ anticipated by the publication "Pressure Effects on Submicrosecond Phospholipid Dynamics Using a Long-Lived Fluorescence Probe," Journal of Fluorescence, Vol. 8, No. 2, 1998 to Targowski et al. (provided by applicant).

Targowski et al. disclose a method for the extraction of true values of emission anisotropy from fluorescence intensities obtained for a sample under an applied hydrostatic pressure, comprising the steps of measuring polarized fluorescence intensities and then determining excitation and emission correction factors (see pp. 122-3, "Fluorescence Measurements," esp. second and third paragraphs); wherein said true values are obtained from said fluorescence intensities without performing a separate pressurized calibration experiment (see pp. 122-3, "Fluorescence Measurements," esp. third paragraph); a method for the extraction of corrected values of total intensities from polarized fluorescence intensities obtained for a sample under an applied hydrostatic pressure, comprising the steps of measuring polarized fluorescence intensities and then determining excitation and emission correction factors (see pp. 122-3, "Fluorescence

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Measurements," esp. second through fourth paragraphs); wherein said corrected total intensities are obtained from said polarized fluorescence intensities without performing a separate pressurized calibration experiment (see pp. 122-3, "Fluorescence Measurements," esp. third and fourth paragraphs); further comprising determining a steady state fluorescence emission anisotropy (see pp. 122-3, "Fluorescence Measurements," esp. first paragraph); a method for obtaining the true difference in polarized fluorescence intensities from fluorescence intensities obtained for a sample under an applied hydrostatic pressure, comprising the steps of measuring polarized fluorescence intensities and then determining excitation and emission correction factors (see pp. 122-3, "Fluorescence Measurements," esp. second through fourth paragraphs); wherein said true difference in polarized fluorescence intensities are obtained from said fluorescence intensities without performing a separate pressurized calibration experiment (see pp. 122-3, "Fluorescence Measurements," esp. third paragraph); a computer readable storage medium comprising computer executable code for instructing a computer- controlled instrument to perform the acts of measuring polarized fluorescence intensities and then determining excitation and emission correction factors (see pp. 122-3, "Fluorescence Measurements," esp. second and third paragraphs, p. 124, Fig. 1, here it is understood that a computer readable storage medium as claimed is necessary for generating the graphs of Fig. 1).

Allowable Subject Matter

3. Claims 3-7, 10-13, 21-23 and 30-35 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

4. Regarding claims 1-2, 8-9, 18-20 and 29, applicant's arguments filed 11/14/2003 have been fully considered but they are not persuasive.

5. The applicant has argued that the prior art does not provide any teaching of how such methods are performed, and how to determine the excitation and emission correction factors as recited in independent claims 1, 8, 19 or 29. However, Targowski et al. teaches a method for the extraction of true values of emission anisotropy from fluorescence intensities obtained for a sample under an applied hydrostatic pressure, comprising the steps of measuring polarized fluorescence intensities and then determining excitation and emission correction factors (see pp. 122-3, "Fluorescence Measurements," esp. second and third paragraphs); wherein said true values are obtained from said fluorescence intensities without performing a separate pressurized calibration experiment (see pp. 122-3, "Fluorescence Measurements," esp. third paragraph); a method for the extraction of corrected values of total intensities from polarized fluorescence intensities obtained for a sample under an applied hydrostatic pressure, comprising the steps of measuring polarized fluorescence intensities and then

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determining excitation and emission correction factors (see pp. 122-3, "Fluorescence Measurements," esp. second through fourth paragraphs); wherein said corrected total intensities are obtained from said polarized fluorescence intensities without performing a separate pressurized calibration experiment (see pp. 122-3, "Fluorescence Measurements," esp. third and fourth paragraphs); further comprising determining a steady state fluorescence emission anisotropy (see pp. 122-3, "Fluorescence Measurements," esp. first paragraph); a method for obtaining the true difference in polarized fluorescence intensities from fluorescence intensities obtained for a sample under an applied hydrostatic pressure, comprising the steps of measuring polarized fluorescence intensities and then determining excitation and emission correction factors (see pp. 122-3, "Fluorescence Measurements," esp. second through fourth paragraphs); wherein said true difference in polarized fluorescence intensities are obtained from said fluorescence intensities without performing a separate pressurized calibration experiment (see pp. 122-3, "Fluorescence Measurements," esp. third paragraph); a computer readable storage medium comprising computer executable code for instructing a computer- controlled instrument to perform the acts of measuring polarized fluorescence intensities and then determining excitation and emission correction factors (see pp. 122-3, "Fluorescence Measurements," esp. second and third paragraphs, p. 124, Fig. 1, here it is understood that a computer readable storage medium as claimed is necessary for generating the graphs of Fig. 1).

Conclusion


6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Magda Cruz whose telephone number is (571) 272-2114. The examiner can normally be reached on Monday through Thursday 8:00-5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Russ Adams can be reached on (571) 272-2851. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'David Gray', with a stylized, looping flourish extending to the right.

David Gray
Primary Examiner

Magda Cruz
Patent Examiner
February 21, 2004